



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,029	09/26/2001	Marcey L. Kelley	IL-10707	9891
7590 12/01/2003				
Eddie E. Scott Assistant Laboratory Counsel Lawrence Livermore National Laboratory P.O. Box 808, L-703 Livermore, CA 94551			EXAMINER LEROUX, ETIENNE PIERRE	
			ART UNIT 2171	PAPER NUMBER 3
DATE MAILED: 12/01/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/964,029

Applicant(s)

KELLEY ET AL.

Examiner

Etienne P LeRoux

Art Unit

2171

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 2171

### *Specification*

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### *Claim Objections*

Claims 2-5 are objected to because of the following informalities:

Claims 2-5 repeat limitations which are included in claim 1. Such repeated limitations are redundant and thus have been ignored for the purposes of this Office Action. Elimination of redundant limitations has emphasized the unique elements of claims 2-5.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Conference Publication: Secure Software Distribution System by T. Bartoletti et al (hereafter Bartoletti), as provided by applicant.

Claim 1:

Bartoletti discloses:

- determining which of said software patches should be applied to said client's systems [INSTALL PATCHES AS NEEDED per Fig 1, page 6, paragraph 2 lines 15-20]
- collecting said software patches from said vendors by downloading them from said vendor's ftp sites [MONITOR VENDOR'S SITES FOR THE LATEST PATCHES per Fig 1]
- distributing said software patches to said client's systems [TARGET SYSTEM 1, TARGET SYSTEM 2 per Fig 1]
- installing said software patches [INSTALL PATCHES AS NEEDED per Fig 1]

Claim 2:

Bartoletti discloses:

- Interpreting which files will be affected by the installation of said software patches
- interpreting which directories will be affected by the installation of said software patches [page 6, paragraph 2]

Examiner Notes: Redundant elements of claim 2 have been eliminated because they have been covered in supra rejection of claim 1.

Claim 3:

Bartoletti discloses interpreting how much memory and disk space is needed to install

software upgrades and installing said software patches [page 4, paragraph 2]

Examiner Notes: Redundant elements of claim 3 have been eliminated because they have been covered in supra rejection of claims 1 and 2.

Claim 4:

Bartoletti discloses interpreting the operating system type, version and architecture said software patches apply to interpreting which files and directories will be affected by the installation of said software patches [page 4, paragraph 2]

Examiner Notes: Redundant elements of claim 4 have been eliminated because they have been covered in supra rejection of claims 1-3.

Claim 5:

Bartoletti discloses installing said software patches backing-out said software patches that have been applied to said client's systems [page 4, paragraph 3]

Examiner Notes: Redundant elements of claim 5 have been eliminated because they have been covered in supra rejection of claims 1-4.

Claim 6:

Bartoletti discloses:

- determining which of vendor's upgrades and patches have been applied to client's systems
- determining which said software upgrades and patches should be or should have been applied to said clients systems [page 4, paragraph 2 ]

Claim 7:

Bartoletti discloses collection of said patches and upgrades from said vendor's and downloading said patches and upgrades to client systems [page 4, paragraph 1]

Claim 8:

Bartoletti discloses interpreting the operating system type [page 6, paragraph 6]

Claim 9:

Bartoletti discloses interpreting the operating system version [page 6, paragraph 6]

Claim 10:

Bartoletti discloses interpreting the operating system architecture the patch applies to  
[page 6, paragraph 6]

Claim 11:

Bartoletti discloses determining how much memory is needed to install said patch and  
upgrades [page 4, paragraph 2]

Claim 12:

Bartoletti discloses determining how dependencies on other layered products affect the  
installation of said patches and upgrades [page 4, paragraph 2]

Claim 13:

Bartoletti discloses determining how dependencies on other patches, or software  
upgrades affect the installation of a patch [page 4, paragraph 1]

Claim 14:

Bartoletti discloses determining how dependencies on other software upgrades affect the  
installation of a patch [page 4, paragraph 1]

Claim 15:

Bartoletti discloses determining which files will be affected by the installation of a patch  
[page 4, paragraph 2]

Art Unit: 2171

Claim 16:

Bartoletti discloses determining which directories will be affected by the installation of a patch [page 4, paragraph 2]

Claim 17:

Bartoletti discloses checking the permissions and ownership of the files referenced in the patch and ensuring that the system software is authentic [page 3, paragraph 5]

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne LeRoux whose telephone number is (703) 305-0620.

The examiner can normally be reached on Monday – Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (703) 308-1436.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Patent related correspondence can be forwarded via the following FAX number (703) 872-9306

Etienne LeRoux

November 24, 2003



UYEN LE  
AV 2171